

**Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
	)	
<b>Improving Public Safety</b>	)	
<b>Communications in the 800 MHz Band</b>	)	
	)	<b>WT Docket No. 02-55</b>
<b>Consolidating the 900 MHz Industrial/</b>	)	
<b>Land Transportation and Business Pool</b>	)	
<b>Channels</b>	)	
	)	
<b>Commission Seeks Comment on</b>	)	
<b><i>Ex Parte</i> Presentations and Extends</b>	)	
<b>Certain Deadlines Regarding the</b>	)	<b>FCC 04-253</b>
<b>800 MHz Public Safety Interference</b>	)	
<b>Proceeding</b>	)	

**To:   The Commission**

**COMMENTS OF SOUTHERN LINC**

Southern Communications Services, Inc. d/b/a Southern LINC ("Southern LINC"), through its undersigned counsel, submits these Comments in the 800 MHz Public Safety Interference proceeding. On August 6, 2004, the FCC released a *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order* in this proceeding ("800 MHz *Report and Order*") in which it established interference mitigation rules and prescribed a reconfiguration of the 800 MHz band to protect Public Safety radio systems from interference while limiting disruption to incumbent licensees.<sup>1</sup> These Comments respond to a *Public Notice*

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<sup>1</sup> In re Improving Public Safety Communications in the 800 MHz Band; Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels; WT Docket No. 02-55, *Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, 19 FCC Rcd 14969 (2004) [hereinafter *800 MHz Report and Order*].

that seeks comment on several *ex parte* presentations requesting clarification or modification of certain aspects of the *800 MHz Report and Order*.<sup>2</sup>

## **I. EXPANSION BAND**

The FCC should modify the rules applicable to the Expansion Band in Atlanta, Georgia, to address a limited problem.<sup>3</sup> While the adopted rules will allow Public Safety licensees to relocate out of the Expansion Band and to avoid forced relocation into the Expansion Band, these rules could create a channel shortage in the Atlanta area because of the unique situation in the Southeastern United States. Elimination of these rules within a 70-mile radius of the center of Atlanta<sup>4</sup> will effectively address this problem. Making this limited rule change will not have a detrimental effect on incumbents because Public Safety licensees would still receive the same level of interference protection, and incumbent licensees will be able to be accommodated.<sup>5</sup>

In the *800 MHz Report and Order*, the FCC stated that "[t]he Expansion Band in [the Southeast] shall extend from 812.5-813.5 MHz/857.5-858.5 MHz."<sup>6</sup> The FCC expanded the new ESMR band in the Southeast after recognizing that "there are an inadequate number of channels in the 816-824 MHz/862-869 MHz band segment to replicate channel capacity of both Southern LINC and Nextel."<sup>7</sup> When the FCC expanded the new ESMR band in the Southeast, it also shifted the Expansion Band from 814-815 MHz/859-860 MHz to 812.5-813.5 MHz/857.5-858.5

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<sup>2</sup> Commission Seeks Comment on *Ex Parte* Presentations and Extends Certain Deadlines Regarding the 800 MHz Public Safety Interference Proceeding, WT Docket No. 02-55, *Public Notice*, FCC 04-253 (Oct. 22, 2004).

<sup>3</sup> The FCC defines the Southeast in section 90.614(c) of its amended rules, as well as in Appendix G of the *800 MHz Report and Order*.

<sup>4</sup> The center of Atlanta is defined as geographic coordinates N33-44-55; W084-23-17.

<sup>5</sup> Southern LINC and Nextel require further clarification of the parameters of the Expansion Band in connection with their agreement on rebanding in the Southeast. *800 MHz Report and Order*, 19 FCC Rcd 14969 ¶ 164-169.

<sup>6</sup> *800 MHz Report and Order*, 19 FCC Rcd 14969 ¶ 166.

<sup>7</sup> *Id.* ¶ 164.

MHz.<sup>8</sup> Although the *800 MHz Report & Order* permits Southern LINC and Nextel to recommend an equitable channel distribution for the Southeast for all 800 MHz licensees that need to be relocated,<sup>9</sup> Public Safety licensees in the Southeast also retain the right to relocate out of the Expansion Band and to avoid forced relocation into the Expansion Band.<sup>10</sup>

If Public Safety licensees must be relocated out of the 857.5-858.5 MHz Expansion Band in the Southeast, the FCC's band plan will result in a channel shortage in the Atlanta area. As explained in Southern LINC's *ex parte* presentation, a number of Public Safety systems currently operate at 857.5-858.5 MHz in Atlanta.<sup>11</sup> If these systems are moved out of this one megahertz band to the interleaved channels, it will theoretically free up channels to move other non-Public Safety systems to the 857.5-858.5 MHz range. Unfortunately, the system demographics of Atlanta are unique. Over 85 percent of the incumbent systems to be relocated are Public Safety, and there are only a few non-Public Safety systems that could be moved to the Expansion Band channels. Consequently, a one-for-one swap that moves Public Safety incumbents out of the Expansion Band and non-Public Safety incumbents into the Expansion Band is not possible.

Unless Public Safety licensees continue to operate in the Expansion Band in Atlanta, relocation of all these incumbent licensees is not feasible. If the Expansion Band rules remain in place in the Atlanta area, these channels presumably will be vacated by Public Safety and will remain vacant. At the same time, this exodus will force a shortage of channels for Public Safety below 858.5 MHz.

The elimination of the Expansion Band in the Atlanta area would not harm Public Safety or other incumbent licensees. Interference mitigation rules would remain in place for Public

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<sup>8</sup> *Id.* ¶ 166.

<sup>9</sup> *Id.* ¶ 167.

<sup>10</sup> *Id.* ¶ 154.

<sup>11</sup> *Ex Parte* Presentation of Southern Communications Services, Inc. d/b/a Southern LINC, WT Docket No. 02-55, 2-3 (Oct. 8, 2004).

Safety systems located in the former Expansion Band (857.5-858.5 MHz) and would provide these licensees with the same level of interference protection as they would receive below 857.5 MHz.<sup>12</sup>

Altogether, Southern LINC believes the elimination of the Expansion Band in the Atlanta area would serve the public interest. The absence of the restriction on Public Safety systems operating at 857.5-858.5 MHz in the Atlanta area is a very limited adjustment that would allow the FCC to satisfy the spectrum needs of all incumbents, without forcing any licensee to accept only a pro rata share of its existing spectrum. Since no diminution in interference protection for Public Safety Systems should result, the Commission should make this limited adjustment to the Expansion Band. The rule change would also permit the continuation of Southern LINC's and Nextel's operations, which serve not only hundreds of thousands of commercial subscribers, but also thousands of Public Safety entities.

Thus, the FCC should amend paragraph 166 of the *800 MHz Report and Order* to state that "The Expansion Band in this area shall extend from 812.5-813.5 MHz/857.5-858.5 MHz, except within a 70-mile radius of the center of Atlanta. Within this radius, the Expansion Band shall not exist. The center of Atlanta is defined as geographic coordinates N33-44-55, W84-23-17."

## **II. EIGHTEEN-MONTH INTERIM BENCHMARK**

The FCC should clarify the requirements for the eighteen-month interim benchmark for the 800 MHz band reconfiguration.<sup>13</sup> In the *800 MHz Report and Order*, the FCC stated that

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<sup>12</sup> "All licensees operating in the band segment 806-813.5 MHz/851-858.5 MHz shall be afforded the same protection against unacceptable interference . . . ." *800 MHz Report and Order*, 19 FCC Rcd 14969 ¶ 166.

<sup>13</sup> *Ex Parte* Presentation of Nextel Communications, Inc., WT Docket No. 02-55, 4 (Sept. 21, 2004); *Ex Parte* Presentation of Nextel Communications, Inc., WT Docket No. 02-55 2 (Sept. 16, 2004); *Ex Parte* Presentation of APCO International, WT Docket No. 02-55 (Aug. 6, 2004).

Nextel must complete . . . the retuning of Channels 1-120 in twenty NPSPAC Regions within eighteen months after the release of a Public Notice announcing the start date of reconfiguration in the first NPSPAC region."<sup>14</sup> The FCC should deem this benchmark to be met if Nextel relocates all incumbent licensees, other than Southern LINC and Nextel, from channels 1-120 in the first 20 NPSPAC regions within 18 months.

Although Nextel requested clarification regarding how this deadline would apply in the first 20 NPSPAC regions, Southern LINC is specifically commenting on its effect in the Southeast, which encompasses the area where it will have to coordinate rebanding with Nextel. This interpretation is reasonable for the Southeast because eighteen months is an ambitious timetable for the complex choreography of channel swaps in this unique region. Allowing Nextel and Southern LINC to remain on channels 1-120 until the final relocation of NPSPAC licensees to these channels will not hinder the rebanding process overall because: (1) it will still allow the coordinated movement of all NPSPAC licensees to those channels *at the same time within the established 36 month timeframe*; and (2) will make it easier to smoothly transition Nextel and Southern LINC's large systems to new channels while minimizing disruption to their many customers. Because of the sheer number of licensees and relocations involved, the contingent nature of these relocations, and the coordination required among the licensees, the FCC should interpret this benchmark liberally. In addition, APCO and its allied public safety organizations have already confirmed that "18 months would not be sufficient time for the 800 MHz re-tuning to be completed for both 806-809 MHz and NPSPAC channels within any particular region."<sup>15</sup> Hence, there appears to be a consensus view on this aspect of the rebanding schedule.

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<sup>14</sup> *800 MHz Report and Order*, 19 FCC Rcd 14969 ¶ 347, *amended by* In re Improving Public Safety Communications in the 800 MHz Band; Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels; WT Docket No. 02-55, *Second Erratum*, 19 FCC Rcd 19651 (2004) (renumbering paragraph 347 as paragraph 346).

<sup>15</sup> *Ex Parte* Presentation of APCO International, WT Docket No. 02-55 (Aug. 6, 2004).

Thus, the FCC should clarify that the benchmark is met if Nextel relocates all incumbent licensees, other than Southern LINC and Nextel, from channels 1-120 in the first 20 NPSPAC regions within 18 months.

**WHEREFORE, THE PREMISES CONSIDERED**, Southern LINC respectfully requests that the FCC consider these Comments and proceed in a manner consistent with the views expressed herein.

Respectfully submitted,

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